

not sufficient and that the Department needs new legislative authority to regulate chemical site security.

Third, responsible segments of the chemical industry—such as the American Chemistry Council—have recognized the need for a comprehensive national program to ensure adequate security across the entire chemical sector and called for Federal legislation. I welcome this engagement by industry and believe we can work together with them, as well as the administration, and all who are concerned about security, to forge an effective national program.

This legislation is a forceful but pragmatic response to the challenge of chemical site security. It directs its greatest force and focus to those facilities that pose the highest risk in terms of potential loss of human life or other catastrophic results.

It authorizes the Department of Homeland Security to initiate a thoroughgoing security program for thousands of critical chemical sites around the country.

The Secretary would identify which facilities pose a meaningful risk due to terrorism concerns, and then require these facilities to conduct a vulnerability assessment and prepare a security plan and emergency response plan to address the results of this vulnerability analysis.

Facilities within the program would submit these assessments and plans to DHS for review and approval. DHS would then work with the facilities to ensure the plans, and implementation, are adequate. Under a tiered system of requirements, those facilities that pose the greatest risk would face the most stringent security requirements as well as a speedier and more rigorous DHS review. The bill includes civil and criminal penalties for noncompliance and, ultimately, facilities may be ordered to shut down if they do not comply with DHS orders.

This legislation recognizes that facilities will need flexibility to achieve security in the most efficient and effective manner. The bill also recognizes the work of the responsible chemical companies within the chemical sector and does not force those facilities to reinvent the wheel. Instead, the bill ensures that so long as an alternative security program's assessments and plans meet the bill's core requirements for vulnerability assessments and site security plans, facilities operating under those alternative security programs can submit these assessments and plans under the DHS program. However, where the assessments and plans do not meet the bill's core requirements, the Secretary will require appropriate modifications. Finally, the Secretary will judge all assessments and plans against the regulations promulgated under this bill.

This legislation also recognizes that sometimes the best security will come not from adding guards and gates but from reexamining the way chemical

operations are carried out in order to reduce the amount of hazardous substances on site, improve the way they are stored or processed or find safer substitutes for the chemicals themselves. These changes serve to make a facility less inviting as a target for terrorists, as well as limiting the loss of life or other damage if an attack does take place. They also have the added benefit of limiting the harm from an accidental release. This bill clearly requires facilities to look at the risks and consequences related to the dangerous chemicals on site and address those specific vulnerabilities in their security plan. And it includes these process changes among the menu of security measures that chemical facilities should examine when designing their security plans.

We know that many facilities, and many security experts, already look to these less dangerous technologies as a potent and cost-effective way to improve security against a possible terror attack. But we also know that, for some facilities, there can be reluctance or structural impediments to looking at these technological solutions. That is why I feel this bill should go further and include more explicit requirements for chemical facilities to consider less dangerous technologies when they make the security enhancements required under this bill. In particular, the riskier facilities—some of which could endanger tens or hundreds of thousands of lives if attacked—should have to demonstrate that they have looked closely at options that would reduce the catastrophic consequences of a possible terrorist attack. We had a powerful example of such an adjustment close by: after 9/11 focused our attention on potential targets in our midst, Washington DC's water treatment facility ended the use of its potentially deadly liquid chlorine. This is not a question of forcing industry to conduct its operations off a Government-issued playbook. Companies would analyze for themselves whether there are less dangerous ways to conduct their business and would not be forced to implement any changes that were not feasible. But given the extraordinary risks involved, it makes little sense not to require companies to at least take a long hard look at some of the commonsense solutions that have been advocated or already adopted by others within the industry. Therefore, as this bill advances, I will seek to strengthen the requirements for facilities to carefully consider these safer technologies as a means to greater security.

The bill creates structure within DHS to oversee this regulatory program and a regional network to help implement its provisions, particularly to help ensure adequate emergency response capabilities in the event of an attack on a chemical facility. There are also provisions to safeguard sensitive information that DHS receives from the chemical facilities, while at

the same time requiring DHS to share and disclose information necessary for public safety and public accountability. The bill does not affect chemical facilities' obligations to make information available to the public under right-to-know laws or other regulatory programs, and it establishes a secure channel by which members of the public can submit information about potential problems regarding the security of chemical facilities.

This bill also recognizes that Congress is not the only body that can and should help ensure the safety and security of the Nation's chemical facilities. States and localities have long regulated such facilities for various safety and environmental concerns. Since 9/11, some States have also moved to require security improvements at these facilities. These State and local protections are critical adjuncts to our effort at the Federal level, and I am pleased that this bill states clearly that it does not preempt State and local laws or regulations regarding the safety and security of chemical facilities. States and localities are free to enact more stringent chemical security legislation. Only if there is an absolute conflict, such that it is impossible for a facility to comply with both the Federal law and a State or local law or regulation on chemical security, would the Federal provision take precedence. The bill would not disrupt State and local safety and environmental law regarding chemical facilities, nor does it dislodge or alter the operation of State common law with respect to such facilities.

AUTHORITIES FOR COMMITTEES TO MEET

COMMITTEE ON FINANCE

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet in open Executive Session during the session on Monday, December 19, 2005, immediately following the next vote on the Senate Floor, in the President's Room, S-216 of the Capitol, to consider favorably reporting the nomination of Vincent J. Ventimiglia, Jr., to be Assistant Secretary of Health and Human Services for Legislation, U.S. Department of Health and Human Services, Washington, DC.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR TUESDAY, DECEMBER 20, 2005

Mr. GREGG. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:45 a.m. on Tuesday, December 20. I further ask that following the prayer and the pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, the Senate then resume consideration